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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/454,219	12/09/1999	Jordan James Nicol	36105/CAG/B600	3501

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EXAMINER

RAMAKRISHNAIAH, MELUR

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 05/26/2004

19

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/454,219

Applicant(s)

NICOL, JORDAN JAMES

Examiner

Melur Ramakrishnaiah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 58-80 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 58, 59, 67-70 and 74-76 is/are rejected.
- 7) ☒ Claim(s) 60-66, 69, 70, 72, 73 and 78-80 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 19.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 58, 67, 77, are rejected under 35 U.S.C 102(e) as being anticipated by Rasanen (US PAT: 5,805,301).

Regarding claim 58, Rasanen discloses a communication system, comprising: a rate negotiator configured to negotiate a data rate with a first telephony device (10, fig. 2) over a network line, and renegotiate the negotiated data rate with a remote system over a packet based network (reads on GSM system, fig. 1, col. 4 lines 35-45), the remote system comprising a second telephony device (1, fig. 2), and a data exchange (MSC, fig. 2) configured to exchange data signals between the first telephony device and remote system at the renegotiated data rate (col. 7 lines 58-67, col. 8 lines 1-40).

Regarding claims 67 and 77, Rasanen further teaches a method of communications, comprising: negotiating a data rate with a first telephony device (10, fig. 2) over a first network line, renegotiating the negotiated data rate with remote system over a packet based network (reads on GSM system, fig. 1, col. 4 lines 35-45), the remote system comprises a second telephony device (1, fig. 1), and exchanging

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data signals between the first telephony device and the remote system at the renegotiated data rate (col. 7 lines 58-67, col. 8 lines 1-40).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 59, 68, 71, 74-76, 78, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rasanen in view of Bhattacharya et al. (US PAT: 6,353,610, filed 6-19-1998, hereinafter Bhattacharya).

Rasanen differs from claims 59, 68, 78, in that although he teaches transmitting data over a renegotiated data rate as shown above; he does not explicitly teach the following: the data exchange comprises a data pump configured to demodulate the data signals from the first telephony device for transmission over the packet based network to the remote system and modulate data signals from the remote system with a voice band carrier over the network line to the first telephony device.

However, Bhattacharya discloses method and system for call signaling in telephone calls over a packet switched network which teaches the following: the data exchange (reads on gateway 100/130, fig. 1) comprises a data pump (implicit) configured to demodulate the data signals from the first telephony device for transmission over the packet based network to the remote system and modulate data

signals from the remote system with a voice band carrier over the network line to the first telephony device (col. 5 lines 51-55).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Rasanen's system to provide for the following: the data exchange comprises a data pump configured to demodulate the data signals from the first telephony device for transmission over the packet based network to the remote system and modulate data signals from the remote system with a voice band carrier over the network line to the first telephony device as this arrangement would facilitate data transmission between different types of networks by conditioning signals suitable for respective networks as is well known in the art.

Regarding claims 71, 75-76, Rasanen further teaches following: first and second telephony devices each comprises a facsimile machine/modem (col. 5 lines 28-48).

Regarding claim 74, Rasanen does not teach the following: first and second telephony devices comprises a telephone.

However, Bhattacharya teaches the following: first and second telephony devices comprises a telephone (col. 2 lines 53-55).

Thus, it would have been obvious to one of ordinary skill in the art at the time invention was made to modify Rasanen's system to provide for the following: first and second telephony devices comprises a telephone as this arrangement would facilitate voice communications as is well known in the art.

5. Claims 60-66, 69-70, 72-73, 79-82, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (703) 305-1461. The examiner can normally be reached on M-F 6:30-4:00; every other F Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (703)305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Melur Ramakrishnaiah
Primary Examiner
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